



**OFFICE OF THE ATTORNEY GENERAL
EDUCATION AND HEALTH SECTION
MEMORANDUM**

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TO: Arizona School Facilities Board
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FROM: Debra G. Sterling, Assistant Attorney General

SUBJECT: Applicability of Zoning Ordinance to School Districts

DATE: February 22, 2007

This is in response to the Board's request concerning the applicability of a city or town's local zoning regulations to school district. The following analysis and conclusion was provided to the Board at the June 25, 2001 meeting and remains applicable.

In a 1983 Attorney General's Opinion, the Arizona Attorney General's Office opined that school districts were exempt from the building codes of cities and towns (Arizona Attorney General's Opinion I83-052). That opinion was based upon a case that held that political subdivisions, such as school districts, acting in their governmental capacity are exempt from regulations of other political subdivisions, (*City of Scottsdale v. Municipal Court of Tempe*, 90 Ariz. 393, P.2d 637 (1962)). The Attorney General's Office subsequently reversed that opinion when the Legislature amended A.R.S. § 34-461 to specifically provide that local building codes applied to construction of public buildings, including new construction of school district buildings (Arizona Attorney General's Opinion I86-033). However, A.R.S. § 34-461 only refers to building codes and not zoning ordinances and regulations. Therefore, in the absence of a specific statute requiring a school district to follow local zoning ordinances and regulations, a school district is exempt from such regulations provided they are acting in their governmental capacity.

Please contact me if you need any additional information or have any further questions.